

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

United States of America,)	CRIMINAL NO. 3:10-1160-CMC
)	
v.)	OPINION and ORDER
)	
Avery Deron Sumter,)	
)	
Defendant.)	
_____)	

This matter is before the court on Defendant’s motion for relief from judgment “pursuant to Rule 60(b) of the Federal Rules of Civil Procedure.” ECF No. 276. Defendant contends that he was denied due process when this court did not hold an evidentiary hearing to address his claim of ineffective assistance of counsel. *See* Mot. at 5-6.

Section 2255 provides for an evidentiary hearing “[u]nless the motion and the files and records of the case conclusively show that the prisoner is entitled to no relief” 28 U.S.C. § 2255. A federal court in a habeas proceeding must hold an evidentiary hearing when the petitioner alleges facts which, if true, would entitle him to relief. *Townsend v. Sain*, 372 U.S. 293, 312 (1963). However, a court may determine that no material facts are disputed, and so can resolve even non-frivolous allegations on summary judgment. *Blackledge v. Allison*, 431 U.S. 63, 80-81 (1977).

No hearing was required in this case because the record before the court along with the court’s knowledge of the case were sufficient to dispose of Defendant’s allegations. That is, “the motion and the files and records of the case conclusively show[ed] that [Defendant] [was] entitled to no relief.” 28 U.S.C. § 2255(b). Defendant failed to “produce some contrary proof [to the Government’s summary judgment motion and supporting documents] indicating that there [was] a genuine issue of fact.” *Blackledge*, 431 U.S. at 80.

Defendant's motion is **denied**.

IT IS SO ORDERED.

s/ Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina
September 3, 2013